

Appl. No. 10/565,507

Amendment dated: October 22, 2009

Reply to OA of: April 22, 2009

**REMARKS**

Applicants are in receipt of the Official Action dated April 22, 2009 and its contents have been carefully reviewed. Applicants have amended the claims in order to more particularly define the invention in response to the outstanding Official Action. The cancellation of claimed subject matter is made without prejudice or disclaimer and with the right to re-introduce this subject matter in the present or a further continuing application.

The Official Action is a restriction requirement in which it is urged that there are four separate and distinct inventions claimed in this application. Applicants elect the Group I invention, drawn to various compounds of Formula (I), which includes claims 1-8, 13, 15 and 17. This election is made with traverse for the reasons discussed below. Applicants reserve the right to file one or more divisional applications on the non-elected inventions at a later time.

Since the Group I invention has been elected, there is a further requirement for an election of species of a particular compound and to list the claims readable thereon. Applicants have by amendment, elected the species of Formula III as included in amended claim 3. This is a species of Formula (III) of canceled claim 1, within Formula (I) and includes claims 1-5, 8, 13, 15 and 17. Claim 17 has been added an ultimate species as fully supported by the specification at page 22, example 2 with the di-glutathine substituted product (4OH-OPB-2GSH) see also page 1 of the specification. In short, Applicants species is a compound of Formula IV wherein both Y-R<sub>6</sub> groups are glutathione groups ortho to the OH group and where R<sub>5</sub> is hydrogen.

Applicants most respectfully submit that the amended claim set contains a special technical feature which define an unique contribution to the art. In particular, the Applicants have reduced the claimed structures to those of Formula III, containing an oxygenated group on the centre, heterocyclic ring, and both a para-hydroxyl group and at least one thiolated group on the aromatic ring. Compounds of

Appl. No. 10/565,507

Amendment dated: October 22, 2009

Reply to OA of: April 22, 2009

this core structure, are not known in the art and in particular could not be predicted to show the anti-inflammatory suppression of cytokine production effects demonstrated in the present application.

The Official Action points to particular structures from WO 01/00585 as the invariable core of the present invention, but it is noted that none of these contain the three key features indicated above. Thus, the structure of Formula III and their effects are a true contribution to the relevant art and so form a single general inventive concept.

In view of the election of the Group I invention, and Group IV species, with traverse, an early and favorable action on the merits is now believed to be in order and is most respectfully requested. All rights for rejoinder are reserved.

In view of the foregoing election, examination of the elected invention on the merits and consideration of a reasonable number of claims with an allowable generic claim is in order and most respectfully requested as is the right of rejoinder.

Respectfully submitted,

BACON & THOMAS, PLLC

By:   
Richard E. Fichter  
Registration No. 26,382

625 Slaters Lane, 4<sup>th</sup> Fl.  
Alexandria, Virginia 22314  
Phone: (703) 683-0500  
Facsimile: (703) 683-1080  
REF:kco

October 22, 2009